

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

ALLEN ALEXANDER PARKS,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-19-1137-D
)	
SHERIFF P.D. TAYLOR, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

This matter comes before the Court for review of the Report and Recommendation [Doc. No. 60] issued by United States Magistrate Judge Amanda Maxfield Green on January 22, 2021. Judge Green recommends the denial of Plaintiff's Motion for Leave to Supplement the Amended Complaint [Doc. No. 45] and the dismissal of supplemental state law claims asserted in the Amended Complaint [Doc. No. 46] due to a lack of supplemental jurisdiction under 28 U.S.C. § 1367(a).

Plaintiff, a state prisoner who appears *pro se*, has neither filed a timely objection nor requested additional time to object.¹ Judge Green expressly advised Plaintiff of both his right to object to the Report and the implied waiver rule. *See* R&R at 3. Therefore, the Court finds that Plaintiff has waived further review of the issues addressed in the Report. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); *see also United States v.*

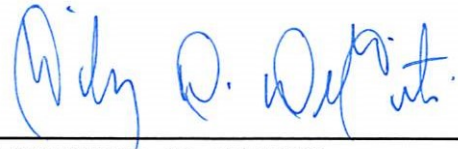
¹ Although Plaintiff has at times complained about delivery of his legal mail, Plaintiff timely objected to the Order on Pending Motions [Doc. No. 61] issued contemporaneously with the Report. *See* 2/18/21 Order [Doc. No. 67] (overruling Plaintiff's objection). Thus, there is no question Plaintiff received the Clerk's mailings to him that day.

2121 E. 30th St., 73 F.3d 1057, 1060 (10th Cir. 1996). Further, for the reasons stated by Judge Green, the Court finds that it lacks jurisdiction over Plaintiff's supplemental state law claims.

IT IS THEREFORE ORDERED that the Report and Recommendation [Doc. No. 60] is ADOPTED in its entirety. Plaintiff's Motion for Leave of Court to Supplement CIV-19-1137-D with State Claim Count(s) Against Added Defendants [Doc. No. 45] is DENIED.

IT IS FURTHER ORDERED that the supplemental state law claims asserted in the Amended Complaint [Doc. No. 46] are DISMISSED without prejudice for lack of jurisdiction.²

IT IS SO ORDERED this 23rd day of February, 2021.



TIMOTHY D. DeGIUSTI
Chief United States District Judge

² Because the Court lacks jurisdiction, the dismissal must be without prejudice to refiling, even if refiling would be futile. *See Brereton v. Bountiful City Corp.*, 434 F.3d 1213, 1218 (10th Cir. 2006) (“the court, having determined that it lacks jurisdiction over the action, is *incapable* of reaching a disposition on the merits of the underlying claims”) (emphasis in original).